

122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§ 8701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Agricultural Market Transition Act, referred to in subsec. (a), is title I of Pub. L. 104–127, Apr. 4, 1996, 110 Stat. 896, which is classified principally to chapter 100 (§ 7201 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 7201 of this title and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (a), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, which is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Food Security Act of 1985, referred to in subsec. (a), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Title XII of the Act, popularly known as the “Sodbuster Law”, is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. Subtitle D of title XII of the Act is classified generally to subchapter IV (§ 3830 et seq.) of chapter 58 of Title 16. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of this title and Tables.

#### CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 1603(a), substituted “Food, Conservation, and Energy Act of 2008” for “Farm Security and Rural Investment Act of 2002”.

2002—Subsec. (a). Pub. L. 107–171 inserted “title I of the Farm Security and Rural Investment Act of 2002,” after “made available under”.

1996—Subsec. (a). Pub. L. 104–127 substituted “Any person” for “For each of the 1991 through 1997 crops, any person”, substituted “loans or payments made available under the Agricultural Market Transition Act,” for “production adjustment payments, price support program loans, payments, or benefits made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.)”, and struck out “during the 1989 through 1997 crop years” before “, with respect to any commodity produced”.

1993—Subsec. (a). Pub. L. 103–66 substituted “1997” for “1995” in two places.

1990—Subsec. (a). Pub. L. 101–624 substituted “1991 through 1995 crops” for “1989 and 1990 crops” and inserted “, or under any contract entered into under title XII during the 1989 through 1995 crop years,” after “(16 U.S.C. 3831 et seq.)”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–624 effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101–624, set out as a note under section 1421 of this title.

#### EFFECTIVE DATE

Section 1306 of Pub. L. 100–203 provided that this section is effective beginning with 1989 crops.

## § 1308–3a. Adjusted gross income limitation

### (a) Definitions

#### (1) In general

In this section:

##### (A) Average adjusted gross income

The term “average adjusted gross income”, with respect to a person or legal entity, means the average of the adjusted gross income or comparable measure of the person or legal entity over the 3 taxable years preceding the most immediately preceding complete taxable year, as determined by the Secretary.

##### (B) Average adjusted gross farm income

The term “average adjusted gross farm income”, with respect to a person or legal entity, means the average of the portion of adjusted gross income of the person or legal entity that is attributable to activities related to farming, ranching, or forestry for the 3 taxable years described in subparagraph (A), as determined by the Secretary in accordance with subsection (c).

##### (C) Average adjusted gross nonfarm income

The term “average adjusted gross nonfarm income”, with respect to a person or legal entity, means the difference between—

- (i) the average adjusted gross income of the person or legal entity; and
- (ii) the average adjusted gross farm income of the person or legal entity.

#### (2) Special rules for certain persons and legal entities

In the case of a legal entity that is not required to file a Federal income tax return or a person or legal entity that did not have taxable income in 1 or more of the taxable years used to determine the average under subparagraph (A) or (B) of paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income, the average adjusted gross farm income, and the average adjusted gross nonfarm income of the person or legal entity for purposes of this section.

#### (3) Allocation of income

On the request of any person filing a joint tax return, the Secretary shall provide for the allocation of average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income among the persons filing the return if—

(A) the person provides a certified statement by a certified public accountant or attorney that specifies the method by which the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income would have been declared and reported had the persons filed 2 separate returns; and

(B) the Secretary determines that the method described in the statement is consistent with the information supporting the filed joint tax return.

**(b) Limitations****(1) Commodity programs****(A) Nonfarm limitation**

Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds \$500,000.

**(B) Farm limitation**

Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive a direct payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8711 et seq., 8751 et seq.] during a crop year, if the average adjusted gross farm income of the person or legal entity exceeds \$750,000.

**(C) Covered benefits**

Subparagraph (A) applies with respect to the following:

(i) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8711 et seq., 8751 et seq.] or an average crop revenue election payment under subtitle A of title I of that Act [7 U.S.C. 8711 et seq.].

(ii) A marketing loan gain or loan deficiency payment under subtitle B or C of title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8731 et seq., 8751 et seq.].

(iii) A payment or benefit under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(iv) A payment or benefit under section 1506 of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8773].

(v) A payment or benefit under title IX of the Trade Act of 1974 [19 U.S.C. 2497 et seq.] or subtitle B of the Federal Crop Insurance Act [7 U.S.C. 1531].

**(2) Conservation programs****(A) Limits****(i) In general**

Notwithstanding any other provision of law, except as provided in clause (ii), a person or legal entity shall not be eligible to receive any benefit described in subparagraph (B) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds \$1,000,000, unless not less than 66.66 percent of the average adjusted gross income of the person or legal entity is average adjusted gross farm income.

**(ii) Exception**

The Secretary may waive the limitation established under clause (i) on a case-by-case basis if the Secretary determines that environmentally sensitive land of special significance would be protected.

**(B) Covered benefits**

Subparagraph (A) applies with respect to the following:

(i) A payment or benefit under title XII of this Act [16 U.S.C. 3801 et seq.].

(ii) A payment or benefit under title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223) or title II of the Food, Conservation, and Energy Act of 2008.

(iii) A payment or benefit under section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)).

**(c) Income determination****(1) In general**

In determining the average adjusted gross farm income of a person or legal entity, the Secretary shall include income or benefits derived from or related to—

(A) the production of crops, including specialty crops (as defined in section 3 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note; Public Law 108–465)) and unfinished raw forestry products;

(B) the production of livestock (including cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry, fish, and other aquacultural products used for food, honeybees, and other animals designated by the Secretary) and products produced by, or derived from, livestock;

(C) the production of farm-based renewable energy (as defined in section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101));

(D) the sale, including the sale of easements and development rights, of farm, ranch, or forestry land, water or hunting rights, or environmental benefits;

(E) the rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

(F) the processing (including packing), storing (including shedding), and transporting of farm, ranch, and forestry commodities, including renewable energy;

(G) the feeding, rearing, or finishing of livestock;

(H) the sale of land that has been used for agriculture;

(I) payments or other benefits received under any program authorized under title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7901 et seq.) or title I of the Food, Conservation, and Energy Act of 2008 [7 U.S.C. 8701 et seq.];

(J) payments or other benefits received under any program authorized under title XII of this Act [16 U.S.C. 3801 et seq.], title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 223), or title II of the Food, Conservation, and Energy Act of 2008;

(K) payments or other benefits received under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333);

(L) payments or other benefits received under title IX of the Trade Act of 1974 [19 U.S.C. 2497 et seq.] or subtitle B of the Federal Crop Insurance Act [7 U.S.C. 1531];

(M) risk management practices, including benefits received under a program author-

ized under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (including a catastrophic risk protection plan offered under section 508(b) of that Act (7 U.S.C. 1508(b))); and

(N) any other activity related to farming, ranching, or forestry, as determined by the Secretary.

**(2) Income derived from farming, ranching, or forestry**

In determining the average adjusted gross farm income of a person or legal entity, in addition to the inclusions described in paragraph (1), the Secretary shall include any income reported on the Schedule F or other schedule used by the person or legal entity to report income from farming, ranching, or forestry operations to the Internal Revenue Service, to the extent such income is not already included under paragraph (1).

**(3) Special rule**

If not less than 66.66 percent of the average adjusted gross income of a person or legal entity is derived from farming, ranching, or forestry operations described in paragraphs (1) and (2), in determining the average adjusted gross farm income of the person or legal entity, the Secretary shall also include—

(A) the sale of equipment to conduct farm, ranch, or forestry operations; and

(B) the provision of production inputs and services to farmers, ranchers, foresters, and farm operations.

**(d) Enforcement**

**(1) In general**

To comply with subsection (b), at least once every 3 years a person or legal entity shall provide to the Secretary—

(A) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity does not exceed the applicable limitation specified in that subsection; or

(B) information and documentation regarding the average adjusted gross income, average adjusted gross farm income, and average adjusted gross nonfarm income of the person or legal entity through other procedures established by the Secretary.

**(2) Denial of program benefits**

If the Secretary determines that a person or legal entity has failed to comply with this section, the Secretary shall deny the issuance of applicable payments and benefits specified in paragraphs (1)(C) and (2)(B) of subsection (b) to the person or legal entity, under similar terms and conditions as described in section 1308–2 of this title.

**(3) Audit**

The Secretary shall establish statistically valid procedures under which the Secretary shall conduct targeted audits of such persons or legal entities as the Secretary determines are most likely to exceed the limitations under subsection (b).

**(e) Commensurate reduction**

In the case of a payment or benefit described in paragraphs (1)(C) and (2)(B) of subsection (b) made in a crop, program, or fiscal year, as appropriate, to an entity, general partnership, or joint venture, the amount of the payment or benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each person who has an average adjusted gross income, average adjusted gross farm income, or average adjusted gross nonfarm income in excess of the applicable limitation specified in subsection (b).

**(f) Effective period**

This section shall apply only during the 2009 through 2012 crop, program, or fiscal years, as appropriate.

(Pub. L. 99–198, title X, § 1001D, as added Pub. L. 107–171, title I, § 1604(2), May 13, 2002, 116 Stat. 215; amended Pub. L. 110–234, title I, § 1604(a), May 22, 2008, 122 Stat. 1012; Pub. L. 110–246, § 4(a), title I, § 1604(a), June 18, 2008, 122 Stat. 1664, 1740.)

REFERENCES IN TEXT

The Food, Conservation, and Energy Act of 2008, referred to in subsecs. (b)(1)(B), (C)(i), (ii), (2)(B)(ii) and (c)(1)(I), (J), is Pub. L. 110–246, June 18, 2008, 122 Stat. 1651. Title I of the Act is classified principally to chapter 113 (§ 8701 et seq.) of this title. Subtitles A, B, and C of title I of the Act are classified generally to subchapters I (§ 8711 et seq.), II (§ 8731 et seq.), and III (§ 8751 et seq.), respectively, of chapter 113 of this title. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 8701 of this title and Tables.

The Trade Act of 1974, referred to in subsecs. (b)(1)(C)(v) and (c)(1)(L), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978. Title IX of the Act is classified generally to subchapter VIII (§ 2497 et seq.) of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Federal Crop Insurance Act, referred to in subsecs. (b)(1)(C)(v) and (c)(1)(L), (M), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§ 1501 et seq.) of chapter 36 of this title. Subtitle B of the Federal Crop Insurance Act probably means subtitle B (§ 531) of title V of act Feb. 16, 1938, which is classified generally to subchapter II (§ 1531) of chapter 36 of this title. For complete classification of this Act to the Code, see section 1501 of this title and Tables.

Title XII of this Act, referred to in subsecs. (b)(2)(B)(i) and (c)(1)(J), is title XII of the Food Security Act of 1985, Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1504, popularly known as the “Sodbuster Law”, which is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. For complete classification of title XII to the Code, see Tables.

The Farm Security and Rural Investment Act of 2002, referred to in subsecs. (b)(2)(B)(ii) and (c)(1)(I), (J), is Pub. L. 107–171, May 13, 2002, 116 Stat. 134. Title I of the Act is classified principally to chapter 106 (§ 7901 et seq.) of this title. Title II of the Act enacted, amended, and repealed numerous sections and provisions set out as notes in this title, Title 16, Conservation, and Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 7901 of this title and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub.

L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 1001D of Pub. L. 99-198 was renumbered section 1001E and is classified to section 1308-4 of this title.

#### AMENDMENTS

2008—Pub. L. 110-246, § 1604(a), amended section generally, substituting subsecs. (a) to (f) for former provisions which related to: in subsec. (a), definition of “average adjusted gross income”; in subsec. (b), limitation on benefits if average adjusted gross income exceeded \$2,500,000; in subsec. (c), certification that average adjusted gross income did not exceed limitation; in subsec. (d), reduction of benefits commensurate with ownership interest; and in subsec. (e), applicability of section during 2003 through 2007 crop years.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

#### TRANSITION PROVISIONS

Pub. L. 110-234, title I, § 1604(b), May 22, 2008, 122 Stat. 1016, and Pub. L. 110-246, § 4(a), title I, § 1604(b), June 18, 2008, 122 Stat. 1664, 1744, provided that: “Section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), as in effect on September 30, 2007, shall apply with respect to the 2007 and 2008 crop, fiscal, or program year, as appropriate, for each program described in paragraphs (1)(C) and (2)(B) of subsection (b) of that section (as amended by subsection (a)).”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of this title.]

### § 1308-4. Education program

#### (a) In general

The Secretary shall carry out a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of county and State committees established under section 590h(b) of title 16, for the purpose of fostering more effective and uniform application of the payment limitations and restrictions established under sections 1308 through 1308-3 of this title.

#### (b) Training

The education program shall provide training to the personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1308 through 1308-3 of this title.

#### (c) Administration

The State office of the Agricultural Stabilization and Conservation Service shall make the initial determination concerning the application of payment limitations and restrictions established under sections 1308 through 1308-3 of this title to farm operations consisting of more than 5 persons, subject to review by the Secretary.

#### (d) Commodity Credit Corporation

The Secretary shall carry out the program provided under this section through the Commodity Credit Corporation.

(Pub. L. 99-198, title X, § 1001E, formerly § 1001D, as added Pub. L. 101-624, title XI, § 1111(g), Nov. 28, 1990, 104 Stat. 3499; renumbered § 1001E, Pub. L. 107-171, title I, § 1604(1), May 13, 2002, 116 Stat. 215.)

#### CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### PRIOR PROVISIONS

A prior section 1001E of Pub. L. 99-198 was renumbered section 1001F and is classified to section 1308-5 of this title.

#### EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see section 1171 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1421 of this title.

### § 1308-5. Treatment of multiyear program contract payments

#### (a) In general

Notwithstanding any other provision of law, in the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary of Agriculture may, if the new owner succeeds to the prior owner's contract entered into under title XII,<sup>1</sup> make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any contract entered into under title XII<sup>1</sup> executed prior to such devise or descent.

#### (b) Limitation

Payments made pursuant to this section shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.

(Pub. L. 99-198, title X, § 1001F, formerly § 1001E, as added Pub. L. 101-624, title XI, § 1111(h), Nov. 28, 1990, 104 Stat. 3499; renumbered § 1001F, Pub. L. 107-171, title I, § 1604(1), May 13, 2002, 116 Stat. 215.)

#### REFERENCES IN TEXT

Title XII, referred to in subsec. (a), is title XII of the Food Security Act of 1985, Pub. L. 99-198, Dec. 23, 1985, 99 Stat. 1504, as amended, popularly known as the “Sodbuster Law”, which is classified principally to chapter 58 (§ 3801 et seq.) of Title 16, Conservation. For complete classification of title XII to the Code, see Tables.

#### CODIFICATION

Section was enacted as part of the Food Security Act of 1985, and not as part of the Agricultural Adjustment Act of 1938 which comprises this chapter.

#### EFFECTIVE DATE

Section effective beginning with 1991 crop of an agricultural commodity, with provision for prior crops, see

<sup>1</sup> See References in Text note below.